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CONSTITUTIONAL DEVELOPMENTS IN FOREIGN COUNTRIES DURING 1908 AND 1909¹

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Perhaps the two most important constitutional events during recent years are the establishment of the South African Union and the struggle in Great Britain over the budget and with reference to the powers of the House of Lords. Both of these events are excluded from treatment here—the South African Union is discussed somewhat fully in another part of this REVIEW; the British constitutional struggle is still in progress, and cannot be satisfactorily treated at the present time.²

However, with reference to the South African Union it may be well to call attention to the movement away from loosely-constructed federal states. In the United States the state governments have steadily tended to become of less importance

¹ This paper is merely a summary of important events, and is confessedly incomplete; in a number of cases it has been impossible to obtain the text of laws or proposed measures, and the discussion in such cases has necessarily been based upon accounts which have appeared in foreign magazines or newspapers. Volume 4 of the *Jahrbuch des Oeffentlichen Rechts*, which is not yet available to the writer of this paper, contains articles on the Hungarian electoral proposals, on the Saxon and Saxe-Weimar electoral reforms of 1909, and on the Bosnian constitution.

² See an article by Edward Porritt on *Recent and Pending Constitutional Changes in England*, in the May, 1910, number of this REVIEW.

as compared with the national government, but this change has necessarily been produced not so much by textual changes in the constitution as by judicial interpretation. By the German imperial constitution of 1871 a fairly centralized federal organization was established, and since 1873 when the federal legislative power was extended over the whole field of civil law there have been no important extensions of federal power by textual changes in the constitution; but here as in the United States the federal power has increased at the expense of the states in a manner not shown by changes in the written instrument of government. "The most important and most weighty interests of the nation are common to all and must be cared for in a uniform manner, and all branches of public law and political life stand in a close and indissoluble relation the one to the other, so that by the logic of facts particularism must give place to unity, the common will must to an ever increasing extent displace the separate wills of the individual states."³

In Switzerland the movement toward a stronger federal government has been a steady one. The organization established in 1815 was a loose confederation of the cantons, and a real federal state was not constituted until 1848. A still further strengthening of the central government was brought about by the constitution of 1874, and amendments to that instrument have continued the same process. The most important amendments extending federal power in Switzerland are the one of 1897 placing the control of food products under the federal jurisdiction and two amendments of 1898 extending the federal legislative power over the fields of civil and criminal law. Two amendments adopted in 1908 still further augment federal power; one grants the federal government power to enact uniform regulations with respect to arts and trades, and another places the utilization of water power under the control of the

³ Laband, *Die geschichtliche Entwicklung der Reichsverfassung*, Jahrbuch des öffentlichen Rechts der Gegenwart, i, 5. See also Leacock, *The Limitations of Federal Government*, Report of the American Political Science Association, 1908, p. 37; and Amidon, *The Nation and the Constitution*, Report of the American Bar Association, 1907, p. 463.

confederation. A third amendment, also adopted in 1908, increases federal power to a certain extent over alcoholic liquors by prohibiting the manufacture or sale of absinthe and by placing power in the hands of the confederation to enforce this prohibition.⁴

In Mexico also there has been a tendency to decrease state powers as compared with those of the central government. An amendment of 1883 extended the federal legislative power over the whole fields of mining and commercial law, and amendments of 1896 and 1901 specifically reduced the power of the states in the matters of commerce and of contracting public debts. An amendment of June 20, 1908, extends federal legislative power over the waters within Mexican territory.

The people of South Africa, in constituting a unitary rather than a federal government, are thus acting in accordance with political experience, which shows that a federal organization is defective when a country faces grave problems requiring a uniform treatment throughout its whole territory. Mr. R. H. Brand in a recent book on South Africa says: "In Australia the narrow patriotism of the different states has imposed upon the Federal Government limitations which are generally admitted to be checking that country's advance. Federalism must be accepted where nothing better can be got, but its disadvantages are patent. It means division of power and consequent irritation and weakness in the organs of government, and it tends to stereotype and limit the development of a new country. South African statesmen have been wise to take advantage of the general sentiment in favor of a closer form of union. It is remarkable that South Africans have succeeded where almost all other unions have failed, in subordinating local to national feeling, and that the people of each colony should have been ready to merge the identity of their state, of whose history and tradi-

⁴ For a summary of these amendments see this REVIEW, iii, 571. Proposals were introduced into the Swiss National Council in December, 1908, for the adoption of an amendment extending federal jurisdiction over automobile traffic and aerial navigation. The Federal Council in a report of March 22, 1910, recommended that such an amendment be submitted to the people.

tions they are in every case intensely proud, in a wider national union, which is still but a name to them.”⁵

During the past few years there has been an active movement which has had for its object the liberalizing of governmental organization, and which has had an important effect in widening the suffrage qualifications in a number of states. The liberal movement in Russia first began to exert an influence upon the government in August, 1905, when representative institutions were promised, and a law was issued under which it was proposed to hold elections for the Duma.⁶ The election law of August 19, 1905, provided a restricted suffrage and for a class system of voting. This law did not satisfy the people, and an imperial manifesto of October 30, 1905, promised a wider suffrage and that the new Duma should have real legislative power. The election law of December 24, 1905, issued in fulfilment of this promise, went far toward establishing universal male suffrage; it gave some power in the elections to every important element of the population. The first and second Dumas were chosen under this liberal election law, and proved not to be subservient to the government. The second Duma was dissolved on June 16, 1907, and at the same time a new electoral law was issued which greatly restricted the suffrage, introduced a class system of electors and indirect voting, and placed the elections in the hands of those who were thought to be favorable to the government. This election law was issued by the emperor in direct violation of the provisions of the constitution granted on May 6, 1906, by the terms of which it was provided that “no new law shall be promulgated without the approval of the Council of the

⁵ *The Union of South Africa*, 46-47. Keith, *Responsible Government in the Dominions*, p. 173, says: It should, however, be noted that already in the Commonwealth of Australia the friction between the state governments and the Commonwealth is giving rise to expressions of the desire to abolish the states as such and to create a great unified government.

⁶ The movement in Russia may have had some effect in producing the Montenegrin Constitution of 1905, although reforms had been undertaken in this country before that date. There are now only a few small portions of territory in Europe where constitutions are not in force. In Monaco a constitutional movement recently began, and a commission was appointed in March, 1910, to draw up a constitution. See the *Contemporary Review*, April, 1910, p. 511.

Empire and of the Imperial Duma." The third Duma, elected under the law of June 16, 1907, has proven a fairly tractable and conservative body.⁷

During the period of Russian reaction from 1899 to 1905 Finnish representative institutions practically disappeared, and an effort was made to assimilate the Finnish governmental organization to that of Russia. Finland possessed a Landtdag composed of four estates of the same type as the Swedish Riksdag before 1866; in 1809 when Finland passed from Sweden to Russia the Swedish institutions remained, and Finnish representative institutions were guaranteed by the Russian emperor; a law of 1869 provided that the Landtdag should meet once every five years. But, as has already been suggested, before 1905 Finland was rapidly being merged with the rest of the Russian empire, and seemed about to lose both her somewhat independent position and her representative institutions. But the liberal movement in Russia itself, together with the almost united opposition of the Finnish people to the Russification of their territory, brought in 1905 a change of attitude. On July 20, 1906, a new Landtdagsordning, framed by the Finnish Landtdag itself, was approved by the Russian emperor and became law. By this law the four estates were abolished and were replaced by a new landtdag or diet with a single chamber composed of two hundred members. For electing members of this diet universal suffrage was established for all males and females who had reached the age of twenty-four years, and every voter became eligible to the Landtdag. The Landtdag meets annually and its members are elected for three years upon a system of proportional representation. Despite the reaction in Russia itself these liberal institutions remain in Finland although legislation has recently been proposed in the Russian Duma which will practically destroy Finnish autonomy.⁸

⁷ Samuel N. Harper, *The New Electoral Law for the Russian Duma* (Chicago, 1908). Pierre Chasles, *Le Parlement Russe* (Paris, 1909).

⁸ The text of the law of July 20, 1906, may be found in Dareste, *Constitutions Modernes*, 3d. ed., ii, 204. See also Erich, *Ein Blick auf die neueste politische Gesetzgebung Finlands*, Jahrbuch des oeffentlichen Rechts der Gegenwart, ii, 431.

The Austrian House of Representatives was before 1907 elected by a system of class representation, in which the property-owning and tax-paying classes had the greatest influence. Until 1896 only tax-paying citizens could vote, but in that year an additional class was established, in which universal male suffrage prevailed, and about one-sixth of the members of the House were elected by this class. This partial representation did not prove satisfactory, and after some little agitation an amendment to the fundamental law concerning imperial representation was passed which abolished the class system of voting and established universal male suffrage.⁹

The past three years have brought an enlargement of the suffrage in each of the three Scandinavian countries. Universal male suffrage did not prevail in Norway until 1898, and not until 1905 did the voters vote directly for members of the Storting; before 1905 electors were chosen by the voters and these electors then met to choose their representatives in the national representative body. Long strides toward a more democratic government were made by the constitutional amendments of 1898 and 1905. A further constitutional change of June, 1907, extended the right to vote for members of the Storting to women twenty-five years of age or over who themselves or whose husbands pay a tax upon an annual income of 400 kroner in cities or upon 300 kroner in the country. Before the adoption of this amendment women had the right to vote in communal elections under similar conditions. Under these provisions it is estimated that about 300,000 of the 550,000 Norwegian women above the age of twenty-five have the right to vote in national elections. The election of October and November, 1909, was the first general election in which women took part, and it is estimated that from 40 to 50 per cent of the qualified female voters cast their ballots in this election.¹⁰

⁹ For a summary of the Austrian law see this REVIEW, ii, 56. See also Ulbrich in *Jahrbuch des oeffentlichen Rechts*, ii, 285.

¹⁰ Flandin, *Institutions politiques de l'Europe Contemporaine*, iv, 440. *Revue politique et parlementaire*, vol. 63, p. 636. Constitutional amendments were adopted in Norway in 1908, one of which abolished the ceremony of coronation

Constitutional alterations were adopted in 1909 which liberalize to a marked degree both houses of the Swedish Riksdag, and make some other important changes in the Swedish governmental organization. Members of the upper house continue to be indirectly elected by the provincial and municipal councils, but they serve hereafter for six rather than nine years, and the qualifications for membership in the upper house are materially reduced; whereas ownership of property worth 80,000 rixdollars or payment of a tax on an income of 4000 rixdollars was heretofore necessary, now a person to be eligible must own taxable property worth 50,000 rixdollars or pay a tax upon an annual income of 3000 rixdollars; the possession of a taxable income of less than \$1000 is not a very burdensome qualification. Compensation is now paid to members of the upper house, whereas before 1909 they were unpaid.

All members of the lower house of the Swedish Riksdag are now elected directly, and universal male suffrage for all persons twenty-four years of age replaces a suffrage based upon property qualifications. Elections of members to both houses under the amendments of 1909 are by a system of proportional representation, in the districts where more than one member is to be chosen. These broad reforms place Swedish parliamentary institutions upon a really popular basis, but they did not satisfy the social democrats, who in the early part of 1909 brought in bills for the extension of the suffrage to all persons, both male and female, who had attained the age of twenty-one years, and for the purpose of decreasing the legislative power of the upper house.¹¹

Under the constitution of 1866 the Danish Folkething is elected by universal male suffrage, but men must attain the age of thirty before exercising the right to vote. Until recently oral voting

and another withdrew from the king control over the sessions of the Storthing after that body had been in session for two months. The king had not, however, exercised control over such sessions since 1836. *Ibid.*, vol. 59, p. 624.

¹¹ The Swedish amendments of 1909 also provided for a council of legislation which should advise the king with reference to his action upon all laws passed by the Riksdag. The texts of the revised Swedish constitution and Riksdagsordning may be found in Dareste, *Constitutions Modernes*, 3d. ed., ii, 46-114. See also Flandin, iv, 330-333.

prevailed, but in 1901 the secret ballot was introduced. The Landsting, however, is composed of 66 members, of whom 12 are appointed by the king, and the other 54 indirectly elected by local electoral colleges. In the election of these local colleges the higher taxpayers have had the choice of one-half of the members, and in the country districts a number of large taxpayers have had authority to form part of these local colleges without election. A somewhat similar dominance was given to the larger taxpayers in the election of municipal and communal councils. The law relating to communal elections, which came into effect in April, 1908, while it does not affect in any way elections to the two houses of the Rigsdag, extends very materially the suffrage in local elections. The special voting privileges of larger taxpayers have disappeared. The suffrage is conferred upon both males and females who have attained the age of twenty-five years. By this law the number of persons qualified to vote in local elections has been about doubled.¹²

Having discussed briefly the successful reforms of election laws during recent years it may now be well to refer to some projects which have not yet been embodied in the form of law. In France a vigorous agitation has been going on for several years in favor of proportional representation, the proposed introduction of this system necessarily involving the substitution of the *scrutin de liste* for the *scrutin d'arrondissement*. An important report upon this subject was drawn up in 1906 by M. Charles Benoist,¹³ and in October, 1909, the matter came to a vote in the chamber of deputies. Votes were taken favorable to the *scrutin de liste* and to proportional representation, but no further action was taken because the government, while admitting the need for reform, declined to commit itself to any program of electoral change which should be adopted before the next general election. In the election which took place in April and May, 1910, proportional representation was before the people, and

¹² Flandin, iv, 216-228, 244. La vie politique dans les deux mondes, i, 237, ii, 233. Revue politique et parlementaire, vol. 58, pp. 411, 412. Questions diplomatiques et coloniales, vol. 27, p. 473.

¹³ Documents parlementaires, Chambre des députés, vol. 71, p. 890.

a majority of the deputies chosen is in favor of the change. M. Briand, the French Prime Minister, has drawn up a plan of electoral reform which will be supported by the government. This plan includes; (1) The reëstablishment of the *scrutin de liste*. (2) Proportional representation. (3) The election of deputies for six rather than four years, with one-third of the members to be chosen each two years, instead of the total renewal of the chamber at one election. This third proposal, however, will probably not be pushed by the government should it encounter much opposition.

In 1900 the people of Switzerland rejected a proposed amendment which would have introduced proportional representation for the election of members to the National Council, but the proposal of 1900 was combined with one for the popular election of members of the Federal Council, and this in part was the cause of its rejection. An amendment proposed by initiative petition in 1909 has for its purpose the one object of introducing proportional representation for the election of the National Council. The Federal Council reported upon this proposal on February 25, 1910; it proposed that the project be submitted to the people with a recommendation that it be rejected. The proposed amendment will probably be voted upon in 1910, and the result of such a vote is doubtful, as the measure is being vigorously opposed. In the Netherlands also there has been some consideration of the subject of proportional representation. A commission was appointed in 1905 to consider the subject of constitutional revision, and this commission in its report made in 1907, recommended, among other things, the introduction of proportional representation and the extension of political rights to women; no action has been taken upon the basis of this report, however. Though there seems little prospect of either proportional representation or the referendum being adopted in England in the near future, yet there is some slight tendency toward these institutions. Mr. A. V. Dicey has for many years championed the referendum, and there is a fairly large part of the Conservative party advocating the same measure as a means of breaking

deadlocks between the Lords and Commons.¹⁴ A royal commission appointed in 1908 has recently rendered a valuable report in which it recommends the adoption of proportional representation.¹⁵

But perhaps the most interesting struggles for electoral reform in recent years are those in Hungary and in Germany. At present the right to vote in Hungary is based upon a complicated system of property, tax-paying, or educational qualifications, and the whole system is nicely adjusted so as to maintain Magyar supremacy. In the Hungarian House of Representatives there were, excluding the Croatian members, but twenty-six non-Magyars out of four hundred and thirteen members in 1909; yet less than half the population is Magyar. The Magyars are in control of the governmental machinery and any proposal for equal and universal suffrage is opposed because it would almost necessarily destroy Magyar supremacy. An agreement reached between the "Coalition" and the emperor-king in 1906 contained a definite agreement that the "coalition" ministry would introduce universal suffrage, and by this agreement it seems to have been intended that a suffrage reform should be brought about which would give the non-Magyars a real influence in the government.

But the agreement was interpreted by the Magyar ministry to require universal but not necessarily equal suffrage. There was much delay before any bill was introduced, and the measure finally submitted in November, 1908, was so drawn as, in the words of its author, Count Andrassy, "not to compromise the Magyar character of the Hungarian state." This end was to be attained by plural voting, and by requiring that the vote be public and oral.

All male Hungarian subjects twenty-four years of age¹⁶ knowing how to read and write *in Hungarian* were to have one vote.

¹⁴ See A. V. Dicey, *The Referendum and its Critics*, Quarterly Review, April, 1910.

¹⁵ Report of the Royal Commission appointed to inquire into electoral systems. (London, 1910, p. 63.)

¹⁶ The present age is twenty years.

Those not knowing how to read and write *in Hungarian* were to have but one-tenth of a vote, every ten of them choosing an elector who should cast this vote. Thus those who do not know the Magyar language are reduced to the same level as illiterate Magyars, and would have almost no weight in the elections. Those paying twenty crowns of direct taxes or having completed one-half of the course of secondary instruction were to have two votes, as also those over thirty-two years of age who have served in the army and are parents of three legitimate children, or persons who have worked for five years with the same employer. Those who have completed their course of secondary instruction, or who pay a direct tax of at least one hundred crowns were to have three votes.

“About two hundred thousand persons possess three votes because they pay a direct tax to the state of at least one hundred crowns, or have passed their “baccalaureat” as they say in France; eight hundred and sixty thousand citizens have two votes, it may be because they pay a tax of twenty crowns, or because they have had a certain instruction or a certain position, or because they are fathers of three children. Finally 1,530,000 individuals have only one vote; they are all of the other adult males who are not illiterates. There remain 1,270,000 Hungarians who do not know how to read and write; to these are given a tenth of a vote and their vote is indirect; that is, each group of ten names an elector who has a vote at the polls. By this system the Hungarian populations are divided into four categories: the two first which represent the well-to-do and educated classes, have 2,385,000 votes, cast by 1,083,000 persons; the two second, which constitute the proletarian classes, have 1,661,000 votes, cast by 2,805,000 citizens.”¹⁷

These proposals would give universal but not equal suffrage and would more than double the number of persons taking part in the elections, but they leave the control of affairs just where

¹⁷ Gabriel Louis-Jaray in *Questions diplomatiques et coloniales*, vol. 27, p. 227. See also M. Jaray's valuable work, *La Question sociale et le socialisme en Hongrie*, and *La vie politique dans les deux mondes*, iii, 191.

it was before and as reforms of the present situation were merely illusory. By classing together the Magyar proletarians and the non-Magyar nationalities the ministry forced a combination of these elements against its measure, and the struggle necessarily widened out from one simply between the Magyar and non-Magyar elements of the population. The bill was not only so drawn as to leave control in the hands of those who now have it, but the system of oral voting would have made it possible to exert pressure upon the lower classes of voters.

Since the introduction of this measure in 1908 Hungarian affairs have been in a state of almost constant turmoil over the creation of an independent Hungarian bank and over other questions concerning Austro-Hungarian relations. Suffrage reform fell into the background. The Hedervary ministry which came into power in the spring of 1910, and which obtained a majority of the House of Representatives in the elections of June, 1910, is committed both to suffrage reform and to a more conciliatory policy with reference to Austro-Hungarian relations; some measure of suffrage reform may be expected within the year, but the reforms will probably not introduce universal and equal suffrage but will almost certainly be of such a type as "not to compromise the Magyar character of the Hungarian state."

In Germany during the past few years there has been an almost steady movement toward more liberal institutions. The subject of ministerial responsibility in the imperial government has been discussed somewhat fully in the Reichstag during the past two years, and the ministerial crisis of 1908 and the final resignation of Chancellor von Bülow in 1909 gave an added impetus to discussions of this subject. However, there is little possibility of the establishment of the principle of ministerial responsibility, because of the character of the imperial organization and of the close relations between the governments of Prussia and of the Empire. Another question of imperial policy which has presented itself forcibly during recent months is that as to the government of Alsace-Lorraine. For several years promises of some constitutional reform in this respect have been made, and agitations during the early months of 1910 have forced the imperial

government to make the statement that it would in the near future bring forward proposals granting a greater share of autonomy to Alsace-Lorraine.¹⁸

However, it is not in the Empire but in the German states that the most vigorous liberal movement has been in progress. In many of the states the suffrage and electoral methods have been very antiquated. Important electoral reforms were made in Baden in 1904. The first chamber of the Landtag was liberalized by the introduction of members chosen by the commercial and communal institutions; for the second chamber universal male suffrage has prevailed since 1869, but before 1904 the elections were indirect; the voters chose electors who in turn elected members of the chamber; direct elections were introduced in 1904.¹⁹ Reforms were introduced in Wurtemberg in 1906 which liberalized the institutions of that state. The upper house of the legislature retains its conservative character, although some elected members have been added; for the lower house seventy of the ninety-three members had since 1868 been elected by universal and direct male suffrage, but in 1906 all members became so elected; of the ninety-two members who now form the lower house sixty-nine are elected from single districts, and the remaining twenty-three are elected from larger districts under a system of proportional representation.²⁰

By a law of 1882 the class system of voting in Bavaria was replaced by an equal suffrage extended to all persons paying a direct tax, but indirect elections were retained; in 1906 direct were substituted for indirect elections, but the tax qualification for the exercise of the suffrage remains.²¹ Proportional repre-

¹⁸ See Pierre Braun, *Alsace-Lorraine. Les préludes d'une lutte nationale. Questions diplomatiques et coloniales*, April 16, 1910.

¹⁹ The text of the constitution of Baden may be found in Dareste, i, 314. See also E. Walz, *Die badische Verfassungsreform des Jahres 1904*, *Jahrbuch des öffentlichen Rechts der Gegenwart*, i, 317.

²⁰ Dareste, i, 275. Göz, *Verfassungsrevision und Verwaltungsreform in Württemberg*, *Jahrbuch des öffentlichen Rechts*, i, 255. Fontaine, *La Représentation proportionnelle en Wurtemberg* (Paris, 1909).

²¹ Grassmann, *Die bayerische Landtagswahlgesetz vom 8. April, 1906*. *Jahrbuch des öffentlichen Rechts*, i, 242.

sentation for Bavarian municipal elections was introduced by a law of August 15, 1908.²²

The new election law adopted by Hamburg on March 5, 1906, is of interest because of its introduction of proportional representation. Qualifications based upon property, position, or the payment of taxes have been strengthened, and the electoral system remains one in which the higher classes exercise a dominating influence in the *Bürgerschaft*.²³ Oldenburg by a law of April 17, 1909, substituted universal male suffrage and direct voting for indirect voting and a suffrage based on a tax qualification.²⁴ A new electoral law for Saxe-Weimar, adopted April 10, 1909, substitutes the direct for the indirect system of voting, and although it does not increase the number of members of the Landtag elected by universal suffrage would seem not to have weakened popular control by the addition of five members who will be chosen by the university, and by industrial and agricultural organizations.²⁵ In Saxe-Altenburg also there was enacted a new suffrage law in 1909, but practically no change was made in the method of electing members to the Landtag; nine of the thirty-two members are elected by the highest taxpayers, and the remainder are elected by taxpayers under a three-class system similar to that employed in Prussia.²⁶ The two Mecklenburgs remain the only German states which do not possess elected representative bodies; the representative institutions of these states are a survival from mediæval times; the Grand Duke in 1907 initiated a movement for constitutional reform, and a proposed constitution drafted in 1908 provided for the establishment of a Landtag, whose members should be chosen partly by the landed, industrial, official and professional

²² Robert Piloty in *Jahrbuch des oeffentlichen Rechts*, iii, 478.

²³ Geert Seelig in *Jahrbuch des oeffentlichen Rechts*, ii, 132.

²⁴ Posener, *Staatsverfassungen des Erdballs*, 306.

²⁵ Posener, *Staatsverfassungen des Erdballs*, 395. *Deutsche Geschichtskalender*, 1909, i, 230. Combes de Lestrade, *Les Monarchies de l'empire allemande*, 184.

²⁶ Posener, 451. In Schaumburg-Lippe a new election law was adopted in 1906, but it appears to have made no essential change in the representative system. New electoral proposals were submitted in Hesse-Darmstadt in 1909.

classes, and partly by universal suffrage; these proposals were rejected by the Ritterschaft during the latter part of 1909.²⁷

Although the movement toward electoral reform has been a rather general one throughout Germany, the most interesting developments have been those in Saxony and Prussia. Before 1896 Saxony had a general suffrage based on a small tax qualification, and members of the second chamber of the Landtag were chosen by direct secret ballot. The fear of the socialists caused a complete change in this system in 1896. Indirect elections with public voting were introduced; the tax qualification was continued, and a three-class system of voting was adopted which gave to the larger taxpayers control of the elections, although not to as great an extent as the similar system employed in Prussia. A proposed reform of this system was presented in 1907 which should extend the suffrage but leave the effectual control of elections in the hands of the higher classes. The election law passed on May 5, 1909, re-introduced direct and secret voting, and provided: (1) that male persons twenty-five years of age paying direct taxes should have one vote; (2) those owning two hectares of land, or paying a tax upon an annual income of 1250, 1400 or 1600 marks, according respectively as such income is drawn from land, public office, or from general sources, and those who have passed certain examinations, have two votes each; (3) those paying annual taxes as above upon an income of 1600, 1900 or 2200 marks, or who possess four hectares of land, or who as teacher, engineer, artist, or writer earn an income of 1900 marks, have three votes each; (4) those paying an annual tax as above upon an income of 2200, 2500 or 2800 marks, or who own eight hectares of land have four votes each. Every man belonging to the first, second, or third class is given an additional vote upon reaching the age of fifty years. No person has more than four votes. In October, 1909, the first elections were held under this law, and the socialists

²⁷ Lowell, *Governments and Parties in Continental Europe*, i, 364. Brückner, *Bericht über die mecklenburgischen Verfassungsvorlagen*, Jahrbuch des öffentlichen Rechts, iii, 493.

instead of being held in check by its provisions gained twenty-five seats in the Landtag, or nearly one-third of the second chamber, whereas they had before had only one member.²⁸ This success emboldened the socialists to such an extent that in the early part of 1910 they brought forward a project to reform and liberalize the first chamber, which is now composed entirely of persons who sit by virtue of hereditary right, property, position, or royal appointment.

In Prussia for the election of members to the House of Representatives the three-class system of voting prevails, together with indirect elections and oral voting. "The system at present in force is briefly as follows: The total taxation assessment of the electoral district is divided into three equal parts. The names of all who pay direct taxes in the district are drawn up on a roll in the order of their assessment. Beginning at the top of the list so many of the voters as make up between them one-third of the total assessment form the first class. The second class consists of a greater number of less wealthy voters, determined on the same principle, while the third class is made up of the remainder of the electors. Each class elects an equal number of secondary voters, who together form an electoral college and in their turn elect the deputy. Thus each class has through the secondary electors an equal share in the ultimate choice of their representative. But in consequence of the system by which the number of voters in each class is determined, the first and second classes consist of a comparatively few wealthy electors—in 2,214 districts the first class consists of a single individual and in 1,703 districts of two. Yet the two classes combined can always outvote the great mass of the people, who make up the third class."²⁹ It is estimated that in 1907 about three per cent of the Prussian electorate belonged to the first class, about 9.5 per cent to the second class, and about 87.5 per cent to the third

²⁸ Lowell, I, 336. Combes de Lestrade, 176. Annual Register, 1909, pp. 307, 308. *Revue politique et parlementaire*, vol. 63, p. 206. Upon the whole subject of property qualifications for voting see a valuable article by Georg Schmidt, *Der Wahlsensus*, in the *Archiv für öffentliches Rechts*, (1910), pp. 193, 254.

²⁹ London Times, Feb. 10, 1910.

class. The indirect elections enable the first and second classes, by virtue of the smallness of their number to exercise a greater control over elections than they might otherwise have, and oral voting makes it possible to bring pressure to bear upon members of the lower classes. Furthermore there has been no general redistribution of seats in the House of Representatives since 1860, although a partial reapportionment was made in 1906; the great cities which have sprung up within the past fifty years are grossly under-represented, and the cities form the stronghold of social democracy.³⁰ The socialists in 1903 cast about 40 per cent of the total vote in imperial elections and obtained eighty members in the Reichstag, but at elections in the same year they obtained no seats in the Prussian Landtag. In the elections of 1908 the socialists obtained seven members, their first representation in the Landtag.

The Prussian electoral system has for years been the object of vigorous attacks, but a majority of the lower house of the Landtag has always been obtained against any reform, inasmuch as the present system operates in favor of the conservatives, national liberals, and of all the agrarian interests. The socialists favor universal suffrage with direct and secret voting. After delaying the matter as long as possible the Prussian government presented proposals of reform in February, 1910, which it was hoped would receive the support of all non-socialist parties. Demands for a secret ballot and for a redistribution of seats in the interest of the larger cities were not met, but it was proposed to substitute direct for indirect voting. The three-class system was to be continued, but the first class was to be enlarged, and the influence of richer taxpayers reduced by declining to give weight to any payment of taxes in excess of five thousand marks. The first and second classes would be enlarged also by admitting to them certain official and professional classes. Persons who have completed a course of higher education, who are members

³⁰ The same statement is true as to representation in the German Reichstag, no apportionment having been made since the organization of the Empire. But in the Empire universal male suffrage prevails, and elections are both direct and secret.

of the Reichstag or of the Landtag, hold honorary offices in the local government, and officers in the army and navy should belong to the second class, or to the first class if their tax payments already entitled them to membership in the second class. Lesser officials were to be promoted from the third to the second class; persons who had completed the course of secondary instruction or had performed their military service with credit were to become members of the second class if they possessed a certain minimum income.³¹

This bill was passed by the lower house after a compromise which substituted the secret ballot with indirect voting for direct elections with oral voting. The bill was then adopted by the upper house with amendments approved by the government which would have enlarged the voting areas and would on this account have still further reduced the influence of the richer voters. The bill, however, even as amended left the richer classes in control and even strengthened the position of the officials. It was found impossible to combine all non-socialist parties in support of these proposals, and in the face of peaceful but impressive demonstrations by the socialists the suffrage bill was withdrawn by the government on May 27, 1910.³²

The liberal movement has not been confined to Western Europe, but has extended also to Egypt, Turkey, Russia, India and China. In Egypt no changes in governmental organization have been effected within the past two years, but the agitation of the Nationalist party has steadily increased, although it cannot yet be said that this party represents the views of any large body of the Egyptian natives.³³

In Turkey the revolutionary movement forced the Sultan in July, 1908, to restore the constitution of 1876; an election law

³¹ The proposal resembles in many respects the Saxon three-class system of 1896.

³² Henry Nézard, *Le Suffrage politique en Prusse*, *Revue politique et parlementaire*, vol. 56, p. 532. See also a review of recent German politics in the same journal, vol. 63, p. 204.

³³ Egyptian governmental affairs may be conveniently followed in the annual reports for 1908 and 1909 made by the British agent and consul general on the finances, administration, and condition of Egypt and the Sudan.

was issued establishing indirect elections, a vote being given to practically all adult male Turks who paid direct taxes, but the Turkish population was favored at the expense of other nationalities; the Ottoman parliament met in December, 1908. A reactionary movement in the spring of 1909 threatened the existence of the constitution, but the liberal forces regained control; Abdul Hamid was deposed on April 27, 1909, and his brother became Sultan as Mahommed V. In 1909 a revision of the constitution was undertaken by the Turkish parliament, and the revised constitution went into effect on August 18, 1909. The constitution of 1876 established parliamentary government with ministerial responsibility, and no essential change is made by the amendments of 1909; the revised constitution strengthens parliamentary institutions and imposes some additional guaranties with reference to individual rights.³⁴

The Persian constitutional movement like the Turkish has caused the deposition of a ruler, and has resulted in several constitutional documents. Popular agitation forced the Shah on August 5, 1906, to issue a royal proclamation promising to convene a representative parliament and to reform the governmental institutions, and an election law issued on September 9, 1906, provided for the choice of a national assembly by the people, the elections being conducted with a class system of voting, and the qualifications being such that the great body of the population should have little influence. The National Assembly when it met immediately took into consideration the draft of a constitution, and the Fundamental Law went into effect on December 30, 1906. This law regulates the organization and powers of the Assembly, and provides for the establishment of a senate which should form a branch of the legislature. In January, 1907, the Shah died; his son and successor

³⁴ The text of the constitution of 1876 may be found in French translation in the *Revue du droit public et de la science politique*, vol. 25, p. 532; the constitution as revised in 1909 is in Dareste, ii, 323. The movement in Turkey may be conveniently followed in the Annual Register and in the annual volumes of *La vie politique dans les deux mondes*. See also E. F. Knight, *The Awakening of Turkey* (London, 1909), and an article by Edwin Pears in the *Contemporary Review*, June, 1910.

swore to support the constitution and was forced on October 7, 1907, to consent to supplementary fundamental laws which explicitly established ministerial responsibility and contained among other things, guaranties of individual rights.³⁵ The new Shah, Mahommed Ali, was a reactionary, and in June, 1908, a definite breach took place between him and the Assembly. War followed; the Shah's cause finally suffered defeat, and the Shah took refuge in the Russian legation in July, 1909; he was succeeded by his eleven-year old son. Before his deposition Mahommed Ali restored the constitution, and on July 1, 1909, a new electoral law was promulgated, under the terms of which a new Assembly was to be elected as soon as possible. The constitutional régime began again with the accession of the young Shah; parliamentary institutions were re-established with the meeting of the new Assembly on November 15, 1909, and are still in existence, though it cannot be said that parliamentary government in Persia has yet proven very successful.³⁶

In 1908 there was published a program of constitutional reform for China, the proposed reforms to cover a period of nine years, and to culminate in 1916 and 1917 with a constitution and the first session of an elected parliament. This program of constitutional reform and the steps already taken toward its fulfilment have been so well treated in a recent paper by Dr. Asakawa that it will be unnecessary to discuss the matter in detail here.³⁷ The program of proposed reforms continues to be carried out, at least on paper. An imperial decree of May 9, 1910, designated the members to serve in the senate or imperial assembly the first session of which is to be held on October 3 of this year. This body, unlike the provincial assemblies, is to be composed

³⁵ All of the documents referred to above may be found in English translation in Edward G. Browne's *Brief Narrative of Recent Events in Persia*. (London, 1909).

³⁶ Kitabgi Khan, *La Perse constitutionnelle*, *Revue politique et parlementaire*, vol. 63, p. 347. Events in Persia from December 1906 to December 1909, may be followed in the British Blue Books, Persia, Nos. 1 and 2 (1909), and Persia, No. 1 (1910). The text of the new election law may be found in Persia, No. 1 (1910), p. 73.

³⁷ *The New Régime in China*, Proceedings of the American Political Science Association, 1909, p. 123. As to the work of the first provincial assemblies see a very favorable account in the London Times, Jan. 20, p. 5.

of members all of whom are chosen by the government, from among the nobility, officers, and scholars. It remains to be seen to what extent this body will serve its purpose as the foundation for the later establishment of an elected parliament.³⁸

For some years there has been an agitation in India looking toward a greater popular participation in the government. The agitation against the British administration was accentuated by the discontent occasioned upon the partition of Bengal in 1905. It was necessary to make some concession to allay the growing discontent. An act was passed by the British parliament in 1909 introducing elected members into the legislative councils of the governor-general and of the several provinces. The act permitted an increase of the powers of these councils, and so enlarged their membership as to make them legislative bodies of a deliberative character. The law also permits the creation of provincial executive councils by the governor-general of India, in provinces where such councils do not already exist, provided that the matter be first submitted to both houses of Parliament, and neither house takes action against it.³⁹ It is proposed that such councils should contain some native members. The Indian Councils Act was but an outline, and left the determination as to the number of elected members and as to the method of their election to be controlled by regulations made by the governor-general of India, acting of course with the approval of the secretary of state for India. Inasmuch as separate regulations were necessary for the governor-general's council and for each of the provinces, the regulations for the execution of this law not unnaturally fill a blue book of several hundred pages.⁴⁰ In all councils a majority of the members are appointed; in the governor-general's council a majority are officials, but the non-official element predominates in the provincial councils. The governor-

³⁸ North-China Herald, May 13, 1910, pp. 360, 395.

³⁹ Indian Councils Act, 9 Edw. VII, ch. 4. A summary of this act may be found in this REVIEW, iii, 552. For the situation in India see Henry W. Nevins's *The New Spirit in India* (London, 1908).

⁴⁰ These regulations may be found summarized in the Annual Register for 1909, pp. 382-387.

general's council contains representatives of the several provinces and of certain chambers of commerce, land-holding bodies, Mohammedan communities, etc. The representation in both the governor-general's council, and in the provincial councils is necessarily, because of the organization of Indian society, in the main a representation of interests and classes rather than one based on any system of general suffrage. The first meetings of these enlarged and liberalized councils were held in the early part of the year 1910.⁴¹

The annexation of the Congo Independent State to Belgium was consummated on October 18, 1908. The administration is under the supervision of a colonial minister who is responsible to the Belgian chamber.⁴²

For some years there has been an agitation upon the part of Iceland for a change in its relations toward Denmark. Under a law of 1874 which was modified in 1903 Iceland has an elected assembly, a minority of whose upper house is appointed by the king, and a responsible ministry, but still further autonomy is desired. A commission appointed in 1907 and composed of Danish and Icelandic members, proposed in 1908 a plan of personal union which is somewhat similar to the arrangement between Austria and Hungary. The king would assume the title of King of Denmark and Iceland; national defense and foreign affairs should be administered in common, but otherwise the two parts of the kingdom would be practically independent of each other, though having the same ruler. It was proposed that this agreement should continue for twenty-five years, after which negotiations might be undertaken for a readjustment of relations between the two territories. This compromise was rejected by the Icelandic Althing in February, 1909, and a minis-

⁴¹ For a review of the work of the governor-general's council see the London Times, April 18, 1910, p. 7. See also an interesting article by Ameer Ali on *The Constitutional Experiment in India*, in the Nineteenth Century, March, 1910.

⁴² A full account of the annexation of the Congo may be found in an article by Paul Errera, *Le Congo belge*, Revue du droit public et de la science politique, xxv, 730. The texts may be conveniently found in Dareste, i, 98-105, and in Errera, *Droit public belge*, 773-783.

try came into power which was committed to a more independent position for Iceland.⁴³

Finland, unfortunately, is in a much less satisfactory strategic position with reference to Russia than is Iceland in its relations to Denmark. Finland has nominally enjoyed autonomy since its annexation to the Russian Empire in 1809, but from 1899 to 1905 a vigorous effort was made to assimilate Finnish institutions to those of other parts of the empire. A change of policy was forced in 1905 by the united opposition of the Finnish people, but the change was merely temporary; during the past two years the autonomy of Finland has been practically ignored with reference to questions which are assumed to affect the whole empire. A bill laid before the Russian Duma late in March, 1910, and which will probably have become law before this paper is in print, practically destroys Finnish autonomy. The Finnish Diet remains and will have legislative power with respect to matters which concern Finland exclusively; all laws which do not relate purely to Finland are to be passed by the Russian Duma and Imperial Council. The bill itself enumerates the subjects which are withdrawn from consideration by the Finnish Diet, and this enumeration covers practically the whole domain of internal administration. Furthermore it is provided that the fundamental principles concerning the internal administration may be altered by the imperial legislature. One member of the Imperial Council and five members of the Duma are to be elected by the Finnish Diet. The military and financial administration, the rights of association and assembly, the control of the press, and a number of other matters are to be made uniform throughout the empire. The form of representative government will remain in Finland but its substance will have disappeared.⁴⁴

⁴³ Dareste, ii, 26, has the constitutional law now in force in Iceland. See Bredo Morgenstierne, *Die dänisch-isländische Staatsverbindung*, Jahrbuch des öffentlichen Rechts, iii, 520.

⁴⁴ E. J. Dillon in Contemporary Review, May, 1910. Questions diplomatiques et coloniales, April 16, 1910. London Times, March 30, 1910. An interesting pronouncement by notable foreign jurists in favor of Finnish autonomy may be found in the London Times, March 2, 1910.

The annexation of Bosnia and Herzegovina to Austria-Hungary gave rise to questions which were in the main of a diplomatic character, but the annexation also made necessary new regulations for the government of the annexed territory. Fundamental statutes promulgated on February 22, 1910, establish a diet for Bosnia-Herzegovina, and contain guaranties of private rights. Seats in the diet are distributed primarily according to religions; universal suffrage is established, but elections are based on a class system of (1) landed proprietors and higher taxpayers, (2) urban electors, (3) rural voters.⁴⁵

In the Netherlands and in Greece constitutional changes may perhaps be expected in the near future. A commission to consider the question of constitutional revision was appointed in the Netherlands in 1905, but its report which was made in 1907 resulted in no action; another commission was appointed in March, 1910. In Greece governmental affairs during the past year have been in a state of constant turmoil, and the real control of affairs has been in the hands of the Military League. The political institutions have been in part blamed for the condition of the country, and it has been decided to convene a national assembly to revise the constitution. A program of reform drawn up by Professor Saripolas in February, 1910, involves changes with respect to the organization, election, and powers of the chamber of deputies, and the creation of a council of state which should exercise some of the powers of a second legislative chamber.⁴⁶

Venezuela in August, 1909, adopted a new constitution, which replaces that of 1904. This country thus maintains its record of frequent constitutional changes. The new constitution makes slight changes in the method of electing the president and shortens his term of office from six to four years, erects several new states, changes the apportionment of members of the chamber of deputies, shortens the term of members of the chamber from six to four years, and slightly enlarges the power of the federal govern-

⁴⁵ A full summary of this instrument may be found in the London Times, Feb. 23, 1910.

⁴⁶ See an article entitled *Greece and King George*, in the Quarterly Review, April, 1910.

ment.⁴⁷ A new constitution for the Dominican Republic was adopted in 1908. In the same year Colombia adopted laws and constitutional amendments altering the political divisions of the country, making changes in the composition of the senate, and amending the election law; a constitutional convention was assembled in May, 1910, for the purpose of further revising the Colombian constitution.

Not all important constitutional changes are embodied in the form of laws. One of the most important developments in the past few years has been the adoption by the Australian High Court of the whole doctrine of judicial control over federal legislation, a doctrine borrowed from the United States. The court early in its history had made statements which indicated that it would adopt this doctrine and later decisions have set at rest any doubt as to its attitude.⁴⁸ Professor Harrison Moore advocates the complete adoption of the American principle by the Australian Court.⁴⁹ The principle of judicial control over legislation is one which with us is now the object of vigorous criticism, and it will be interesting to note how it will work in Australia. However, the Australian constitution contains no broad guaranties of individual rights which would give the court discretionary control over legislation, and the judicial control there must necessarily be confined to narrow limits, as compared with that in the United States.

⁴⁷ Summaries of the new constitution may be found in the Bulletin of the International Union of the American Republics, Sept. 1909, p. 648, and Dec. 1909, p. 1152.

⁴⁸ See *Attorney-General v. Brewery Employes' Union*, 6 C. L. R. (1908), 469.

⁴⁹ *Unconstitutional Legislation*, Commonwealth Law Review, iv, 201.